

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**CAUSE NO. 1:22-cr-159-LG-RPM-1**

**MONTEZ CAMPBELL**

**MEMORANDUM OPINION AND ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANT’S MOTION IN LIMINE**

**BEFORE THE COURT** is the [44] Motion *in Limine* filed by Defendant, Montez Campbell.<sup>1</sup> In the Motion, Defendant moves for exclusion of “defendant’s video and audio work as a gangsta rap artist and performer.” (Mot., at 1, ECF No. 44). Defendant claims that admitting the videos into evidence would violate his First Amendment right to freedom of speech. (*Id.*). He also claims that the “rap lyrics and musical content [are] largely irrelevant, laced with hearsay, and when probative, [are] filled with matters unduly prejudicial.” (*Id.*).

The Court has reviewed the evidence sought to be introduced by the Government, which consists of three rap videos.<sup>2</sup> In one video titled, “Do It All Again,” Defendant, under the alias “Wicked Tez,” is viewed brandishing firearms and smoking what appears to be a blunt<sup>3</sup>, often with a large cloud of smoke visible in the background; the lyrics “rapped” by Defendant describe his willingness to

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<sup>1</sup> The Defendant is charged with violations of 18 U.S.C. §§ 922(g)(3), 924(a(1)(A), 924(c)(1)(A) and 21 U.S.C. § 846.

<sup>2</sup> Each of these videos can be publicly viewed and reproduced from the internet.

<sup>3</sup> The Merriam Webster Dictionary defines a blunt as “a cigar that has been hollowed out and filled with marijuana”.

repeat his actions were he given the chance. In another titled, “Houston,” Defendant dances with his associates while holding cups of coffee and vaunting drug usage, brandishing various assault weapons and large amounts of cash. In some shots, Defendant possesses a blunt and a firearm simultaneously. The final video titled, “Pop Out,” is performed by a different individual called “Wicked Isaiah”. The video depicts Defendant with a large group of his associates in possession of bundles of cash, firearms, and kilo quantities of marijuana.

The Fifth Circuit has ruled that “[t]he general conclusion from courts that have considered this type of evidence is that explicit rap videos are probative and outweigh substantial prejudice when the defendant performs the song, describes events closely related to the crime charged, and the evidence is not cumulative.” *United States v. Sims*, 11 F.4th 315, 323 (5th Cir. 2021). In that case, the Court sanctioned the district court’s admission of three rap videos into evidence, each containing performances by the defendant with lyrics and imagery relevant to the charge. The Court reaffirmed this holding in *United States v. Perry*, 35 F.4th 293 (5th Cir. 2022), where it held similarly regarding rap videos in which the defendant “describes conduct and themes that were directly relevant to the Government’s case.” *Id.* at 326.

Having reviewed and considered the video and audio evidence, the Court finds that the two videos performed by Defendant, under the alias “Wicked Tez,” are relevant, probative, and may be fairly used at trial. These two videos are performed by Defendant and portray him visibly in possession of firearms and controlled

substances, with lyrics often explicitly describing relevant conduct. However, the rap video “Pop Out,” while depicting Defendant in background, and is not performed by him, will be excluded. Defendant may seek to offer to the Court a suggested limiting instruction to the jury.

Finally, the Court notes that “the First Amendment . . . does not prohibit the evidentiary use of speech to establish the elements of a crime or to prove intent.”

*United States v. Jefferson*, 751 F.3d 314, 320 n. 5 (5th Cir. 2014) (quoting *Wisconsin v. Mitchell*, 508 U.S. 476, 489 (1993)).

**IT IS THEREFORE ORDERED AND ADJUDGED** that the [44] Motion *in Limine* filed by Defendant, Montez Campbell, is **GRANTED IN PART** and **DENIED IN PART**. The videos titled, “Do It All Again,” and “Houston,” by may be offered as evidence, while the video “Pop Out,” performed by “Wicked Isaiah,” will be excluded.

**SO ORDERED AND ADJUDGED** this the 29<sup>th</sup> day of August, 2023.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.

UNITED STATES DISTRICT JUDGE